SOME
Abuses of the Law Detected,
In a Seasonable
DISCOURSE
Thereupon:
Between a Parliament-Man and a Lawyer,
Now Recomended to the Consideration of the
PARLIAMENT.

Lawyer, *SIR,*

I *Am glad I have met with you, for I long to have some serious discourse with you: I understand that some hot-headed people, that never think themselves well but when they are Reforming forsooth, have a Months mind to be Reforming the Law too.*

Member, Why truly Sir, since the discourse has been on foot, I have taken some Pains to inspect the Law, and I find a great many things in it that serve only to perplex Causes, and are of no other use in the World: Now truly I am for paring off all this; and many other things there are, that need abundance of Redress.

Law. *Pray Sir let's know what these things are, for I think we have nothing that is superfluous.*

Mem. Why, I my self had an occasion to Outlaw a Fugitive fellow, t'other day, and before I could get one Writ to the purpose, I was fain to have three or four, that are wholy useless; I think you call them *Capias*, *Alias* and *Plures*, and there must be fifteen days between the Date and Return of every one of these useless Writs, besides the danger of having any error in them: Another thing that is as impertinent is, notwithstanding the use of almost all Original Writs is laid aside, for now you do not Summon the Defendant, but proceed to *Capias*, and take Bail thereon: Yet, forsooth, those Originals must be continued, and the want of them or the disagreeing of them, with the rest of the proceedings, shall vitiate the whole Cause. An industrious Tenant of mine t'other day, that had got a fair Judgment by Confession for a Hundred Pounds, had his Judgment Reversed, and he is without remedy, because a careless or a knavish Atturney filed no Original; and yet these Originals are of no use in the World:

And I can tell you another thing that's as strange, and long since a Neighbour of mine, and one of the Freeholders whom I represent, had an occasion to bring two Actions, the one of Trespass, and the other of Debt, and notwithstanding the merits of the Causes were fairly tryed, and he had Verdicts in both, and it cost him a great deal of Money and pains too, for he neglected his other business, and came to Town to attend it; Yet for all this, because in the Action of Trespass on the Record, 'twas *Quod Cum* in the Declaration, the Judgment was set aside because the word (*Cum*) was too much (and 'tis as dangerous to omit it in other Actions) And in the Action of Debt, tho his Counsel tells him there's not the least error in the Judgment, the Defendant (who has the longest purse) has brought a Writ of Error, which is granted of course, which will shave it off three Terms more, and truly I fear before that time is out, the poor Fellow must run away. I told these Stories t'other day to an Ingenious *Dutch-Man*, who was curious to be informed of our Laws, and he was amazed to hear them; he told me that in *Holland* in many Cases they could Arrest, have a Tryal and Execution in two or three days time, without any of these Incumbrances; and I hope to see it so here too; for what need is there I pray of your common useless imparlances, as you call them? only to protract Time, enrich the Lawyer, and begger the Clyent.

Law. Sir, *It has been thus these many Years, and why should we think our selves wiser then our Ancestours; besides Sir, I perceive you are perfectly for destroying the Grandeur and Dignity of the Law: which I hope the Lawyers in the House (and in spite of your Teeth we shall always have some there) will be careful to preserve. As to Originals, they are a great Revenue to the Chancellour, and the taking them away would Ruin the Masters always, that have all bought their places (tho of right they ought not) and besides Originals were of great use formerly, and I don't see why they should be laid aside.*

Mem. Formerly all Men were obliged to keep Bows and Arrows, but now they are useless, and Guns are in requeſt, it would be Nonsance still to enjoyn people to have them, least the Bow and Arrow Trade should be spoyl'd: Now the new great Sights are in fashion, there's no need of Candles at the same doors too; and as to rout Antiquity, if that were sufficient to iustifie Error; *Popery* with all its fooneries must have continued, and the *Hottica* will never be converted at that rate; and as to its being a Dignity to the Law, I take it to be the greatest Indignity, and 'tis much like a Story I have heard of an old Dotard, that would leave his Sword off, but would wear his Scabbard for the Dignity of the thing.

Law. *But I hope these are all your Objections.*

Mem. No Sir, I could cram a Volume with them, had I time to recount them, I have been seriously considering of Fines and Recoveries, and truly I think, that either no Entails or Remainders ought to be defeated by any way whatever, or that all such Entails and Remainders, as may be defeated by Fines or Recoveries, should be wholy void and of none effect, without such troublesome, chargeable, impertinent, and dangerous Ceremonies; for if you'l allow them to be defeated, why not without this charge and danger to the Clyent. Not long since a Kinsman of mine that had purchased an Estate entailed, had a Fine and Recovery passed for his security; and he's now like to loose it, the Fine its fear'd will be Reversed, because there are not fifteen days between

tween the Teste and Return of the Writ of Covenant is as to the Recovery either the Writ of Entry or Writs is not all which Writs are wholly useless in themselves; and further, as to the Recovery by a feign'd Judgment between the Demandant Tenant, and *John Doe*, there is a fatal mistake in the sham Story forsooth; now is it not a deplorable thing that a Man should loose an Estate on these Accounts, that he has honestly paid for? Not but that I am for publick Registers (in their room) for all Deeds whatever, that affect Inheritance, to prevent frauds.

Law. *Surely you think your self wiser than all that went before you, you are for turning the World upside down, this would impoverish one quarter of the Families that are supported by the Law, and pray remember you are breeding your own Son up to it, so is the King would loose part of his Revenue if the Alienations, by Fines and Recoveries should be destroyed, and a thousand other mischiefs would happen. What would you have the Law to be? What would you have the Law to? plain that every Cobler should understand it; you talk thus Sir, because you don't apprehend the Nature of these things.*

Adem. Truly there is a mystery of Iniquity in it, for my part, I think, the Law that concerns every body, ought to be as easie as possible; as to my Son, I had rather he got a little honestly, then a great deal by oppression, which never wears well; the King you see by his Renouncing Chimney-Money, is not fond of Taxes that oppress the People; and I am sure Chimney-Money has not ruined more Families then this hath done and may do; and as to your other Argument, I have hear'd a Soldier use the same against Disbanding an Army, when all trouble was over, and there was no further occasion of them, Why say's he, several Officers and Soldiers have no other Livelyhood, and if you Disband us we must either Beg, Rob, or Starve, and yet I think it would be a madness for any Nation to continue them in the oppression of all, for fear they should ruine some particular Men in their Shifts; I have known horrid oppression in this, I have known a Country-Man sue an Action but for Ten Pounds, and I have seen an Attorney's Bill of Fifteen Pounds for the getting it; and if he endeavours any redress against this Knave, the Remedy is worse than the Disease.

Law. *Truly I have thought of that frame, and I can think but of one remedy for't, that is, if any Attorney should make an oppressive Bill, and it should be taxed and declared to be so before a Judge, that such Attornies shall forfeit all that is due to them on that Bill, and such Bill (even a Judge or Prothonotor to be extortive, shall be an absolute acquittance and discharge of the same, Volenti non fit injuria, this will be a speedy way of redress, and after this 'twill be a hard matter to perswade an Attorney to make a Roguish Bill.*

Adem. Truly I believe you have hit the Mark; set a Thief to catch a Thief, as the saying is; but another great oppression I have seen in the Law, is the dangerous and useless Niceties in Pleadings; and I think the late Parliaments have done very well in most of their Acts about penalties, to order the general Issue to be Pleaded, and that the special matter be given in evidence, as you generally do in feigned Issues directed out of Chancery; and in all Ejectments, which line of as great moment as any Action whatsoever; and why may not this be as well done in all Cases, I'le warrant Thousands of Judgments (after fair Tryal and Verdicts) have been set aside meerly on this account; and I don't see the advantage of the nice Pleadings to any but the Lawyers.

Law

Law. *Why, if you should strip us at this rate, you would leave us nothing.*

Adem. Nothing, that's dangerous, chargable, and impertinent, but all that's really requisite: Another thing is this, I think it a very hard case that all Law (like the Ladies Cloaths) must come from London, forsooth, all the Records must be made up, and kept here, and Writs must be sent from hence only; even for us that live at the remotest Parts, why may not we make up and keep our Records in the Countrey that they relate to, and have our process upon the spot, without all this trouble for't.

Law. *Pray Sir no more on't, you have distracted me already?*

Adem. There is but one thing more; and then I have done with you for the present, and that's this; the Law of late is Swel'd to that bulk, and there are so many Books on't, and such variety of opinions in them, that there is not one disputable point, but a crafty Lawyer will Cite five or six Cases to justifie the affirmative and negative too; now 'tis impossible we should be at any certainty in our properties, till this be remedied: And therefore I intend to move the House, that five or six of the ableſt and most publick spirited Lawyers (if there are so many) may be appointed (and paid well for their pains) to determine what Books are of Authority, and what not; and even of those Books that are of Authority to geld out all the opinions that are not Law; and when they have thus determin'd what is Law and what is not, we'll put a sacred stamp on't by Act of Parliament, that this only shall be taken for Law for the future; and then, and not till then, the Student will find some pleasure in his now perplex'd Studies, and we shall find some certainty in the Law, which is now a meer Lottery, and the Judges themselves often can not tell what rule to go by; and Ile undertake, Men had better turn Cross and Pile between themselves, which way the Cause shall go, than imbark in a Suite as uncertain.

Law. *But I hope the Parliament will be Dissolved before this comes to pass; in the mean time i'll set all the Lawyers in Town to expose you, and ridicule the Project, and you know that's their Master-Piece, so Farewell for this bout.*

Licensed, James Fraser.

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